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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/449,631 11/30/99 RENNER

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EXAMINER

MOSHER, M

ART UNIT

PAPER NUMBER

1648

DATE MAILED:

01/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/449,631

Applicant(s)

Renner et al

Examiner

Mosher

Group Art Unit

1648



☒ Responsive to communication(s) filed on 4/14/00

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-49 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-49 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Election/Restriction

Claims 1-49 are generic to a plurality of disclosed patentably distinct species. The generic invention involves a combination of three components: a core particle, an antigen, and an attachment site pair; the claims encompass a plurality of distinct species for each of the three components. The claims list distinct species for each component, comprising:

Core particle species: alphavirus, bacteriophage, hepatitis B, measles, rotavirus, Norwalk, foot & mouth, retrovirus, tobacco mosaic, Papillomavirus, synthetic polymer, lipid micelle, metal.

Attachment site pair species: antigen/antibody, avidin/biotin, receptor/ligand, ligand/binding protein, leucine zipper, amino group/reactant, carboxyl/reactant, sulfhydryl/reactant.

Antigen species: HIV, influenza, hepatitis c, toxoplasma, plasmodium, breast cancer cells, kidney cancer cells, prostate cancer cells, skin cancer cells, brain cancer cells, leukemia cells, profiling, bee sting allergy, food allergy, asthma, chlamydia.

The species of core particle are seen as patentably distinct, because none of the species share common structure with the other species. The attachment site pairs are seen as patentably distinct, because each pair differs from the others in structure, in specificity of interaction, and in avidity of interaction. The antigen species are seen as patentably distinct, because they involve

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structurally and functionally different materials, used in different manners to treat different conditions. Each species requires separate search from each other species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species of core particle, a single disclosed species of attachment site pair, and a single disclosed species of antigen, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. Mosher, Ph.D. whose telephone number is (703) 308-2926. The


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examiner can normally be reached on Monday -Thursday and alternate Fridays from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for this Group is now (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

January 22, 2001


MARY E. MOSHER
PRIMARY EXAMINER
GROUP 1800
1600